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June 15, 1917, c. 30, tit. 1, § 3, 40 Stat. 219, that "whoever, when the United States is at war, shall willfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty in the military or naval forces of the United States" shall be guilty of a crime. The defendant was a man of mature years, well educated, accustomed to public speaking, and his purpose was to persuade people to the beliefs he espoused. He was a man of much public prominence, had been a candidate for Governor of New Jersey, a man whose vocation as an editor turned his attention to public affairs, and whose purpose and paid or volunteered occupation was to educate and persuade his hearers to his beliefs. The evidence showed that in speaking from an elevated platform, in a central place in a populous city, to a large crowd, containing from 30 to 50 men in uniform, who were plainly distinguishable, he used the following language:

"I do not see why the government can compel troops to cross the ocean. It is not in the Constitution. It is a damned shame. Why the hell should we do it? Why have not the Socialists of America the same right as they have in Germany, to vote for or against the war? They send their own Senators to vote for conscription. Why don't the people have a chance?"

It was held that it was sufficient that the defendant did the acts charged, and that they were done willfully and with intent to cause insubordination, disloyalty, mutiny, or refusal of duty in the military or naval forces, and it was not necessary that they produced the effect intended.

The court said: "The United States was at war; the conscription act had been passed, which subjected the men selected to the orders of the military authorities of the country. Under such circumstances, a jury could reasonably infer that a man who undertakes to lead his hearers to adopt his spoken views must, in reason, be held to have intended his words should have, if followed, the effect in action which his counsel in words advised."

It was further held that evidence of opinions expressed by defendant at some previous time and place was properly excluded.

The court very appropriately quoted from the instructions given to applicants for naturalization in court at Philadelphia, April 6, 1917, as follows:

"War is the dividing line. What was only foolish and unwise in word and deed last week, in peace, may be treason when war comes. Remember, when war comes, no man can serve two masters. As of old the message comes: 'Choose ye this day whom ye will serve.'"

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**Husband and Wife—Separation Agreement—Effect of Adultery.—**  
In *Devine v. Devine* (N. J. Eq.), 104 Atl. 370, 371, it was held that

where a husband and wife have made a separation agreement binding him to support her, the adultery of the wife relieved the husband of liability for the balance due under the agreement, since it contained the implied condition that she should remain chaste.

The court said: "In England the adjudications from an early date have been to the effect that the adultery of the wife, committed after the execution of a separation agreement, will not deny to her the right of recovery of the stipulated periodical payments for her support falling due after her adultery, unless the agreement expressly provides that the payments shall continue to be made only so long as she remains chaste; that in the absence of such *dum casta* clause in the agreement no such clause will be implied. \* \* \* The English authorities touching the question here propounded are the following: *Sidney v. Sidney*, 3 P. W. 269; *Winter v. Blount*, note to 3 P. W. 277; *Field v. Serres*, 4 B. & P. (1 B. & P. N. R.) 121; *Seagrave v. Seagrave*, 13 Ves. Jr. 439; *Scholey v. Goodman*, 1 Bing. 349; *Jee v. Thurlow*, 2 B. & C. 547; *Baynon v. Batley*, 8 Bing. 256; *Evans v. Carrington*, 2 De G., F. & J. 481; *Gandy v. Gandy*, L. R. 7 Pro. Div. 168; *Bradley v. Bradley*, 7 Pro. Div. 237; *Fearon v. The Earl of Aylesford*, L. R. 14 Q. B. Div. 792; *Sweet v. Sweet*, L. R. 1895, 1 Q. B. 12.

"21 Cyc. 1957, 9 Ruling Case Law, 532, and 12 English Ruling Cases, 814, note, are to the same effect, but are wholly based upon some of the cases above cited. \* \* \* In England the contract of a husband and wife to live apart is not restricted by law to the period of their mutual assent, and the contract can be specifically enforced; either spouse, if without wrong, may by force of the contract maintain a bill to restrain the other from an action for the restitution of conjugal rights. See *Besant v. Wood*, L. R. 12 Ch. Div. 605, and cases there cited. In New Jersey separation agreements have no such force. Here married persons may agree to live separate and apart from each other, because it is their privilege to live in that manner so long as they mutually desire to do so, and the husband's agreement to support his wife during that period of time is in harmony with his lawful duty; but an agreement of separation cannot confer on either party the right to live away from the other against the will of the other. *Aspinwall v. Aspinwall*, 49 N. J. Eq. 302, 24 Atl. 926; *Mockridge v. Mockridge*, 62 N. J. Eq. 570, 50 Atl. 182.

"By the policy of the law the period for which they thus contract touching their separation is limited to the period of their future mutual assent to live apart. Accordingly, in the absence of wrongdoing on the husband's part, he may require his wife's return to his bed and board, and her refusal will not only constitute her an obstinate deserter, but will deny to her any right to support from him, notwithstanding the existence of an agreement wherein they have mutually stipulated to live apart. *Moore v. Moores*, 16 N. J. Eq.

275; *Power v. Power*, 65 N. J. Eq. 93, 55 Atl. 111; *Power v. Power*, 66 N. J. Eq. 320, 58 Atl. 192, 105 Am. St. Rep. 653.

"The wife's act of adultery while living separate from her husband pursuant to the terms of a separation agreement is thus operative to deny to her husband the right to require her return to him—a right preserved to him by our law—unless he condones an act which he is under no legal or moral obligation to condone. And the legal obligation of a husband to support his wife exists only so long as she shall remain chaste (*Bradbury v. Bradbury*, 74 Atl. 150), unless it shall be held that the burden of the agreement for support contained in a separation agreement survives that period."

In discussing former New Jersey decisions the court said: "In this state, in *Dixon v. Dixon*, 23 N. J. Eq. 316, a bill was filed by the husband to set aside a conveyance which had been made by the husband to his wife's trustee in settlement of her suit for maintenance. The ground for relief was the wife's adultery. On the motion for a preliminary injunction the wife's adultery subsequent to the conveyance was treated as admitted. It was there held by Chancellor Zabriskie that a deed of settlement of that kind, if good at its execution and delivery, would not be set aside for adultery or any misconduct of the wife afterwards. Some of the English cases above cited are there referred to in support of that view. The same view was adopted by Vice Chancellor Dodge, to whom the case was referred for final hearing. *Dixon v. Dixon*, 24 N. J. Eq. 133. In *Lister v. Lister*, 35 N. J. Eq. 49, the bill, filed by a husband, sought to set aside conveyances which he had made, or caused to be made, to his wife; the ground of relief in part being the wife's subsequent adultery. No separation agreement was there involved. The court found the conveyances to have been gifts to the wife, and held that her subsequent adultery afforded no ground for setting aside the conveyances. The same authorities cited in *Dixon v. Dixon*, *supra*, are there partially reviewed. In these New Jersey cases the effect of the subsequent adultery of the wife on executory stipulations for the wife's support contained in a separation agreement was in no way involved or considered. The conveyance which was sought to be set aside in *Dixon v. Dixon* was made long before the adultery was committed; there was clearly no total failure of consideration, and no basis for relief against the deed *pro tanto*."

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**Injunction—Interference with Business—"Bannerling."**—In *Roraback v. Motion Picture Machine Operators' Union of Minneapolis* (Minn.), 168 N. W. 766, 767, it was held that "bannerling" plaintiff's place of business as unfair to organized labor and thereby deterring the public from patronizing him, if done for the purpose of com-